



**International Convention on the
Elimination of All Forms of Racial
Discrimination**

Distr.: General
8 May 2007
English
Original: French

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-eighth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)*
OF THE 1752nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 March 2006 , at 10 a.m.

Chairperson: Mr. de GOUTTES

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1752.

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The meeting was called to order at 10.40 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (*continued*)

Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents (HRI/MC/2005/3)

1. Mr. THORNBERRY said that the document under consideration had been prepared at the request of the Third Inter-Committee Meeting of Human Rights Treaty Bodies and the Sixteenth Meeting of Chairpersons of Human Rights Treaty Bodies on the basis of a preliminary version that a technical working group consisting of one member from each of the seven treaty bodies, including himself, had been assigned to update for further use. That working group had met for five days in December 2005 and in February 2006.

2. He drew particular attention to paragraphs 51-59 of the document, which singled out common provisions of several treaties on the prohibition of discrimination and on equality, on the one hand, and on effective legal remedies, on the other, in accordance with which States parties were obliged to include pertinent information in the common core document. Although the list of common provisions was initially much broader, many members of the technical working group felt that, if all the provisions were kept, the core document could dramatically limit the authority of the treaty bodies. In principle, it would be proposed to each treaty body that it incorporate changes based on harmonized guidelines into its own reporting guidelines. The comments of the different treaty bodies would be conveyed to the Meeting of Chairpersons. In that connection, he felt that it would be more advisable to summarize the proposals and recommendations of the Committee members in a single document, which would be presented separately at the Meeting of Chairpersons, than to introduce an altered document, because that could create a problem if each of the treaty bodies did that.

3. Mr. SICILIANOS noted that the document passed out at the meeting had two different dates of publication: 17 February 2006 and 1 June 2005 (the first date). He was interested in an explanation of what took place between those two dates.

4. Mr. BRUNI (Office of the High Commissioner for Human Rights) reported that the technical working group had examined the version prepared in June 2005, which included the group's proposals regarding the incorporation of amendments. It was that revised text that had been distributed among the Committee members.

5. Mr. VALENCIA RODRÍGUEZ asked whether the technical working group had considered the possibility of according as much importance as possible not only to the core document, but also to the document prepared by each body to the extent to which that would help alleviate the work of the bodies.

6. Mr. SICILIANOS was interested in having an explanation of the benefit and sense of Appendix 2 to the document, which presented an extensive list of international human rights treaties. Furthermore, he noted that, by comparison with the first version of the document, it was being proposed that States submit, as before, a considerable amount of statistical data and indicators (Appendix 3). He doubted that the States parties would be able to incorporate all those data into a common core document. In addition, such data lost their currency very quickly. At the same time, the main part of the document was quite abbreviated, even though

the initial aim of the revision was specifically to expand the common part of the documentation and pare down the part pertaining to specific treaties. He felt that the proffered document was absolutely at odds with the initial aim.

7. Mr. THORNBERRY said that the proffered text, which was the result of a consensus within the technical working group, was not necessarily the most acceptable version. The question of the general meaning of each type of document considered was discussed quite thoroughly. Ultimately, it was decided to keep just the common provisions indicated in paragraphs 51-59 in the common core document, because the representatives of the treaty bodies felt that requirements as serious as those with regard to the core document degraded the role of the treaty bodies considerably. He also pointed out that explanations for the second and third appendices were given in paragraph 41 and subsequent paragraphs, as well as in paragraph 35 and subsequent paragraphs of the document.

8. Ms. CONNORS (Office of the High Commissioner for Human Rights) said that Appendix 2 had been attached to the document to direct the attention of the States parties to the fact that information collected for purposes of preparing any report to be submitted under a given international treaty could be entirely relevant and beneficial to a report pertaining to another treaty. For that reason, there was consideration of the question of proposing to States parties that they append to their common core document the specific report under each treaty.

9. She said that the technical working group had to spend a great deal of time in discussion in order to reach agreement on the essence of the document under consideration. She suggested that the Committee members approve the document quickly so that the States parties could get the guidelines on report preparation as quickly as possible, and she stressed that the Secretary General in his report titled "In Larger Freedom" and the High Commissioner for Human Rights clearly supported the adoption of this document.

10. Ms. LEE (Office of the High Commissioner for Human Rights) said that, actually, it was desirable that the draft harmonized guidelines be adopted as soon as possible, so that the States parties could draft a common core document. If the guidelines were quickly adopted, it would still be possible later to amend the guidelines if the different committees that would be using the core document felt that to be necessary. For that reason, the draft guidelines should be adopted immediately, with the understanding that they could be improved on in time.

11. Mr. PILLAI noted that, given its structure, the document under consideration was more like a textbook than a set of guidelines. He regretted that the Committee members could not make suggestions with regard to changing the structure of the document. As for Appendix 3, which contained a list of demographic indicators that the States parties should use in the document under consideration, he felt it best, for example, to ask the States parties to indicate the percentage accounted for by males in their country, because that indicator could be indicative of the practice of killing newborn girls in a number of societies, a phenomenon that was of interest not only to the Committee on the Elimination of Discrimination against Women, but also to all other committees.

12. In conclusion, he expressed his satisfaction with regard to the fact that the harmonized guidelines could be revised later, and that would probably make it possible for committees to clarify which were the common provisions for the

various human rights treaties and, accordingly, focus the attention of the States parties on questions of concern to all committees.

13. Mr. YUTZIS regretted that, once again, the Committee did not have enough time, and, based on the need to speed the process of adopting the document under consideration, he suggested compiling a list of questions that the Committee would like to return to later, in, for example, the revision of the guidelines.

14. Mr. THORNBERRY felt that, instead of submitting amended draft harmonized guidelines at the next Inter-Committee Meeting, which was planned for June 2006, it would be better if the Committee prepared a separate document that reflected the different opinions of the Committee members. That said, he was prepared to compile a summarizing note that he would distribute among the Committee members before the end of the sixty-eighth session.

15. *It was so decided.*

*The public part of the meeting was suspended at 11.30 a.m
and resumed at 11.55 a.m.*

Presentation of the Special Rapporteur on the question of contemporary forms of racism, racial discrimination, xenophobia, and related intolerance

16. The CHAIRPERSON invited the Special Rapporteur on the question of contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, Mr. Doudou Diène, to brief the Committee on his activities of the past year and to present his thoughts on manifestations of racism and racial discrimination. He recalled that, in 2005, the Special Rapporteur had addressed the Committee members on matters pertaining to cultural diversity and genocide.

17. Mr. DIÈNE (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance), in first presenting a brief survey of his activities of the past year, said that he had visited many countries, including such key countries as Japan, Brazil, and Switzerland. As a result of his visits and the information he collected, he had reached an entire array of grave conclusions.

18. First, he noted, throughout the world, a general expansion of the scale of manifestations of racism, racial discrimination, and xenophobia, which points to the fertility of the culture of racism and discrimination.

19. Second, within the framework of most of the manifestations of racism, the combination of racial, religious, and cultural factors were ever complicating the struggle against racism. In fact, it was difficult to ascertain when we were dealing with a cultural question, a religious matter, or racism. For that reason, in intellectual terms, one had to be on one's guard not to intermingle the different factors, and one had to ascertain in clear terms which racial factor underlay each manifestation of racism.

20. Third, racism was being trivialized, which was particularly due to the spread of racist and xenophobic ideas in political programmes. Racist speeches were not more a distinctive feature of extremist political parties, but were gradually becoming more widespread in the programmes of democratic parties. Racist themes were being democratized under the flag of combating international terrorism, stopping illegal immigration, and respecting "national priorities". That trend was

finding expression in the toughening of national laws that were restrictive of foreigners. The trivialization of racism was also leading to the use of racism, xenophobia, and racial discrimination as tools in political races, because speeches against foreigners were paying dividends in elections.

21. The latest factor in the trivialization of racism was the philosophical and theoretical legitimization of racism, i.e., the proliferation of literature and even university-level research in which racism was being extolled and legalized. An example of that was the last opus of Samuel Huntington, *Who are we?*, in which the author asserted that the physical and cultural presence of Latin Americans in the United States threatened American national identity. It was remarkable that that idea was advanced not by some extremist, but by a well-known university professor who had tremendous influence. The matter of the cartoons of Muhammad published in the Danish press were also a graphic example of the trivialization of racism, discrimination, and xenophobia.

22. The Special Rapporteur drew the Committee members' attention to his latest Commission on Human Rights report (E/CN.4/2006/7), which addressed the situation with Muslims and Arab peoples in various regions of the world. Noting that he had more than once stressed the importance of the struggle against all forms of racial discrimination, he said that, in addition to his report on Islamophobia, he would like to prepare, inter alia, a report on anti-Semitism and Christianophobia. In his Commission report, the Special Rapporteur raised the question of how to identify and differentiate the fundamental and historical distinctive feature of all forms of discrimination, assuming that each form has a specific nature and recognizing the universality of their root causes.

23. As for the cartoons of Muhammad in the Danish press, the Special Rapporteur stressed above all that that case could either confirm or refute the theory of the clash of civilizations, cultures, and religions, because it was inscribed into an ideological framework in which the clash of civilizations and religions was the subject of theoretical assessments or political speeches. Meanwhile, as shown by a thorough chronological analysis of the case, it was not a matter of a clash of civilizations, regardless of what one may have thought after the emotional reaction of the population and a certain segment of the press, which declared it to be a collision of the European world defending freedom of expression and the Muslim world speaking out against that freedom. He stated that there was no such clash and that assertions that there was a clash were at odds with the truth, particularly because in Europe, including Denmark itself, the most varied of views on and responses to the cartoons were being expressed by the public and by religious groups. As soon as the cartoons were published, religious leaders took a very clear, public position, declaring that this was not a matter of a clash of religions and that, although freedom of expression was a fundamental right, it had its limits.

24. A second important aspect that supported the incidents that took place after the publication of the cartoons of Muhammad was the spread of xenophobic and racist programmes among Danish political parties. The extreme right-wing party of Denmark, which had received 13 per cent of the vote in the last national elections, was taking the general political tact of demonizing Islam and conflating Muslims with terrorism. The governmental alliance between that party and a democratic party had the consequence of democratizing racism.

25. Islamophobia, anti-Semitism, and Christianophobia always flourished in countries that have two special features: a strong electoral presence on the part of extreme right-wing parties, and lowered vigilance on the part of national political leaders in the face of growing extremist movements.

26. He felt that two grave issues arose in connection with the cartoon incident. On the one hand, as indicated by the reaction to that incident, there was a fundamental conflict between national identity, which, although it came about in a different historical context, continued to be preserved in the culture of certain countries, and the ever growing multiculturalism of those societies. For example, in Denmark, political leaders and the society acknowledged the movement of society toward multiculturalism, although the dominant ideology was predicated on an identity that was at variance with multiculturalism. That meant that the awareness of a conflict and its future settlement could either give impetus to the strengthening of “multiculturalism” or make it more difficult. That problem of self-identity underlay the discussions of the conflict between freedom of expression and freedom of religion.

27. He said that the crisis also identified a problem with the limits of the provisions of law. Adherents of the theory of the clash of civilizations enunciated a tenet according to which freedom of expression was a distinctive feature of a certain part of the world — in this case, Western or European countries — but not of other countries. According to the tenet, freedom of expression was an essential principle from which all others proceeded. Meanwhile, in this case, the problem consisted in the fact that there was a universal refusal to recognize limits, including juridical limits, to exercising one’s right to freedom of expression of opinion. The cartoon incident also showed how vital the need was to protect freedom of expression of opinion and to establish to its limits.

28. He said that that analysis prompted him to propose to the Commission on Human Rights to conduct a detailed study of the linkages between the principles of freedom of expression and freedom of religion, on the one hand, and the objectives within the framework of the struggle against racism and xenophobia. The crisis sparked by the satirical drawings showed that the rights analysis must be combined with an in-depth analysis of the problems attending the dialogue between cultures, civilizations, and religions and must take into account the special significance that multiculturalism was acquiring.

29. In order for the Committee to play an appropriate, leading role in the struggle against racial discrimination, he suggested that the Committee invite him to the meetings that considered progress in the implementation of the Convention in States parties that he had visited or intended to visit within the framework of his mandate.

30. Mr. YUTZIS, in acknowledging the truly positive methodological and systematic analysis of Mr. Diène, welcomed placing emphasis on the special significance of ethnic, religious, and political aspects of the spread of racism and xenophobia, a dangerous trend that should be examined immediately.

31. He felt that the Committee should accept the suggestion of the Special Rapporteur and invite him to the meetings that consider the situation in the States parties that he had visited or intended to visit. He also suggested that the Committee set up a general discussion of freedom of expression and racism.

32. Mr. KJAERUM agreed with most of the conclusions of the Special Rapporteur on the political context of the publication of the cartoons and on the legal problems arising in connection with it. In his (Mr. Kjaerum's) opinion, that incident only underscored the need for an international dialogue on the problem of racism and xenophobia and the need to coordinate efforts because, although the Convention described methods to combat racial discrimination, it did not always provide a means for settling specific cases involving the manifestation of racism. For example, one Danish citizen was sentenced to five years in prison in Germany for anti-Semitic pronouncements and was deported to Denmark, where, for those same pronouncements, he did not even have to pay a simple fine.

33. He felt that the problem that arose in connection with the cartoons of Muhammad consisted in the fact that it highlighted not a clash between civilizations, but the cultural struggle underway between traditional humanist ideas and the tenets held by ethnic identity advocates, extremists, and fundamentalists. The conflict between the two diametrically opposed traditional ideas was taking place in all countries, and not just in Europe. That was precisely why it was important to expand the dialogue between the different parts of the world.

34. Mr. PILLAI felt that it was necessary to immediately analyze the connection between freedom of expression and racial and religious discrimination, with account taken of the ever expanding use of racism for political purposes in all countries of the world.

35. Mr. LINDGREN ALVES was in full agreement with the conclusions of the Special Rapporteur, particularly with his conclusions that, throughout the world, racism was being trivialized and philosophically and theoretically legitimized and that racist factors were being politically exploited by democratic parties.

36. In the opinion of the expert (Mr. Lindgren Alves), however, the Special Rapporteur was interpreting the cartoon incident in a one-sided, biased fashion. He said that cartoonists in all countries had always poked fun at religions, but that had never evoked such a harsh response as it had today. The responsibility for the tragic events that had followed the publication of the drawings was borne not by the artists, but by the fundamentalists who, throughout the world, were searching for pretexts to foment a clash of civilizations.

37. Mr. DIÈNE, like Mr. Yutzis, felt that, based on what was happening today, the United Nations should organize discussions to elucidate and clarify the dangerous conflation of religion with racism. The religious factor was serious, important, and very sensitive.

38. In responding to the comments of Mr. Lindgren Alves, he said that the contention that the cartoonists were not culpable was tantamount to ignoring the very spirit of their art, which, by its very nature, was conscious provocation. He pointed out that, before the publication of the cartoons of Muhammad, that same Danish daily newspaper had refused to publish satirical drawings of Christ on the pretext that they might offend the sensibilities of the Christian community of Denmark. He maintained that, in this case, the extreme right-wing forces of Denmark, armed with Islamophobia, had exerted very strong political pressure.

39. He added that he would soon visit the Russian Federation, where the situation with racial discrimination was very serious, after which he would go to Italy and Mauritania.

40. As for the discussion of the conflict between the right to freedom of expression and freedom of religion, he suggested emphasizing in that discussion the important aspect of censorship and self-censorship. He pointed out that a balance was achieved in all societies via some form of individual, unofficial self-censorship. In his opinion, the Committee on the Elimination of Racial Discrimination had undoubtedly been called upon to play a leading role in the discussion of the linkage of those two fundamental rights.

The meeting rose at 1.10 p.m.